

REMARKS

Initially, Applicant would like to express his appreciation to the Examiner, Mr. Tuyen Tra, for the courtesy of the telephone interview conducted with his attorney Ms. Linda J. Hodge, on December 10, 2007. During the interview, the claims were discussed and compared to the prior art applied by the Examiner in the rejections, *i.e.*, MORENO (U.S. Patent No. 5,835,188). In particular, Applicant's attorney pointed out that, inter alia, the MORENO patent fails to disclose an eye training device which includes generators which cause irritation to the user, and irritation generators that contact the user's face or head during operation. No agreement was reached. Accordingly, Applicant has presented claim 1, amended to set forth irritation generators that contact the user's face or head during operation, in order to obtain an early allowance of the claims of record.

Applicant would also like to express appreciation to the Examiner for the detailed Final Official Action provided.

Upon entry of the above amendment, claim 1 will have been amended. Accordingly, claims 1-5 are currently pending. Applicant respectfully requests reconsideration of the outstanding rejection and allowance of claims 1-5 in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

Claim 1 has been rejected under 35 U.S.C. § 102(b) as being anticipated by MORENO (U.S. Patent No. 5,835,188).

Although Applicant does not necessarily agree with the Examiner's rejection of the claim on this ground, nevertheless, Applicant has amended independent claim 1 to

clearly obviate the above noted ground of rejection in order to expedite prosecution of the present application. In this regard, Applicant notes that MORENO fails to show each and every element recited in the amended claim. In particular, claim 1, as amended, sets forth an eye training equipment including, inter alia, “two or more irritation generators provided around user's eyes to allow the user to perceive the irritating positions, wherein: the irritation generators are configured to contact the face or head of the user during operation of the irritation generators; and the irritation generators are activated one by one to have the user turn his line of vision toward an irritating position, so that the user can train his eye muscles without actually viewing any target object with the eyes being opened”.

Applicant's claimed eye training device includes a body 1 having a plurality of contact pieces 2a - 2j. Each contact piece 2 includes an irritation generator. Each irritation generator contacts a user's face or head during operation of the irritation generators and of the device. See at least figure 1.

The eye training device of the present invention exercises the eye muscles without bringing discomfort to the user. Further, since no target object is viewed by the user, the present invention may be used with the eyes closed. Accordingly, use of the present invention will not cause dry eyes and accompanying pain. Further, since no target object is viewed by the user, the present invention may be used effectively and comfortably by users that have presbyopia or farsightedness or for other reasons may not be able to focus on a close object or target. See at least pages 3-4 of Applicant's specification.

The eye training device of the present invention operates in the following manner, with reference to figures 3-6 of the drawings. The body 1 is placed on the face of the

user, with the contact pieces 2a-2j and the irritation generators therein contacting the user's face and head. Thus, the user cannot see the contact pieces nor the irritation generators, and there is no target object. As the contact pieces 2a-2j are alternately activated, irritation is generated on the user's skin. The irritation is caused by the particular irritation generator, such as a pressure generator, a vibration generator, a heater, or a weak current generator. Further, as the irritation is generated on the user's skin, the user moves his eyes toward the source of the irritation. Accordingly, the irritation generators are activated one by one to induce the user to turn his line of vision toward the irritating position, so that the user can train his eye muscles without actually viewing any target object.

The MORENO device is in contradistinction from Applicant's claimed invention. In this regard, Applicant notes that the MORENO patent discloses an eye exercising device including the ten light emitting diodes (LED's) mounted on a dish shaped wall 12. See particularly figures 1 and 2. The LED's are light sources, and are positioned on the device for the user to see. In fact, the user must see the LED's for the device to operate properly. During operation of the MORENO device, the LED's are sequentially turned on and off, and the user looks at and views each LED as it is lighted. Thus, the LED's are target objects for the user to view.

As an initial matter, Applicant respectfully points out that the MORENO device does not include irritation generators. The LED's are light sources that the user views during operation of the device and eye exercise. The LED's do not generate any irritation. In this regard, the sight of the LED's, by the user, cannot fairly be said to generate irritation. Moreover, there is no disclosure that the LED's will generate

irritation in the user, nor has the Examiner proffered any reason to believe that the LED's in the MORENO device would generate irritation such that the LED's could fairly be read as irritation generators.

Further, as clearly shown in the figures and as described in the specification, the LED's are spaced a distance away from the user's face and head. In this regard, it is noted that the LED's are mounted on the wall 12. Only the forehead seat 23 and the chin seat 29 of the MORENO device contact the face or head of the user. Clearly, the LED's do not contact the face or head of the user. Moreover, since the LED's must be seen for the MORENO device to operate, the MORENO device could not be constructed nor applied to the user's face such that the LED's would contact the user's face or head. In other words, in the MORENO device, the LED's could not contact the user's skin.

Additionally, MORENO patent specifically discloses that "[t]he person using this invention must move his eyes to focus them on the light source that turns on sequentially" (abstract). Thus, the LED's comprise target objects viewed by the user. Accordingly, the MORENO device is not operated such that the eyes may be exercised without viewing a target object. In fact, the MORENO device could not operate at all if the user could not view the LED's.

Thus, the MORENO patent does not disclose an eye training equipment including, inter alia, "two or more irritation generators provided around user's eyes to allow the user to perceive the irritating positions, wherein: the irritation generators are configured to contact the face or head of the user during operation of the irritation generators; and the irritation generators are activated one by one to have the user turn his line of vision toward an irritating position, so that the user can train his eye muscles

without actually viewing any target object with the eyes being opened”, as set forth in claim 1, as amended.

Since the reference fails to show each and every element of the claimed device, the rejection of claim 1 under 35 U.S.C. § 102(b) over MORENO is improper and withdrawal thereof is respectfully requested.

Claims 2-5 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over MORENO.

However, Applicant notes that the MORENO patent fails to teach or suggest the subject matter claimed, including, inter alia, “two or more irritation generators provided around user's eyes to allow the user to perceive the irritating positions, wherein: the irritation generators are configured to contact the face or head of the user during operation of the irritation generators; and the irritation generators are activated one by one to have the user turn his line of vision toward an irritating position, so that the user can train his eye muscles without actually viewing any target object with the eyes being opened”, as set forth in amended independent claim 1, as described above. Therefore, even if one were led to make the modification asserted by the Examiner, the claimed combination would not result.

Further, Applicant notes that MORENO fails to teach or suggest the subject matter claimed in claims 2-5. In particular, dependent claim 2 sets forth an eye training device including irritation generators, inter alia, “wherein the irritation generator is a pressure generator”. Dependent claim 3 sets forth an eye training device including irritation generators, inter alia, “wherein the irritation generator is a vibration generator”. Dependent claim 4 sets forth an eye training device including irritation generators, inter

alia, “wherein the irritation generator is a heater”. Dependent claim 5 sets forth an eye training device including irritation generators, inter alia, “wherein the irritation generator is a weak-current generator”.

Moreover, the LED's of MORENO are light sources that are viewed by the user in order to direct the eye toward the LED. The Examiner has concluded that modifying the MORENO device to include a pressure generator, vibration generator, heater, or weak current generator would have been obvious in order to vary the way in which the eye muscle is stimulated. However, Applicant submits that nothing in the applied prior art teaches or suggests the claimed combination including a pressure generator, a vibration generator, a heater, or a weak current generator. In fact, modifying the MORENO device to include anything except a light source would completely destroy the MORENO device, since the user must be able to view the target object (*i.e.*, the LED's) to know to move his eyes toward the target object. Since pressure, vibration, heat, and a weak current cannot be seen, the viewer would not be prompted to move his eyes. Moreover, since the target objects of MORENO are not in contact with the user's face and head, the user would not even be able to sense the pressure, vibration, heat, or weak current. Consequently, the modification suggested by the Examiner would completely destroy the MORENO reference. Accordingly, Applicant submits that a factual basis for the rejection has not been established and thus a *prima facie* case of obviousness has not been established, and that rejection of claims 2-5 under 35 U.S.C. § 103(a) over MORENO can only result from a review of Applicant's disclosure and the application of impermissible hindsight. Accordingly, the rejection of claims 2-5 under 35 U.S.C. § 103(a) over

MORENO is improper for all the above reasons and withdrawal thereof is respectfully requested.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection, and an early indication of the allowance of claims 1-5.

SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the proposed amendment is proper for entry since it clarifies the language describing the irritation generators, and the contact between the irritation generators and the user's face or head, which is an issue about which Applicant has already presented arguments in the previously filed response and during the telephone interview, and which the Examiner has already presented arguments in the Official Action and the Final Official Action, and it is also submitted that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicant's invention as recited in claims 1-5. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Accordingly, consideration of the present amendment, reconsideration of the outstanding Final Official Action, and allowance of the present amendment and all of the claims therein are respectfully requested and now believed to be appropriate.

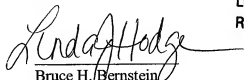
Applicant has made a sincere effort to place the present application in condition for allowance and believe that he has now done so.

Any amendments to the claims which have been made in this amendment, which do not narrow the scope of the claims, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered cosmetic in nature,

and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
Katsumi NAGAYOSHI

A handwritten signature in black ink, appearing to read "Linda J. Hodge", with a long horizontal flourish extending to the right.

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December 11, 2007
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